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Counsel for Defendant
LAJERRIO JEWELRY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

VERRAGIO, LTD.,

Plaintiff,

v.

LAJERRIO JEWELRY,

Defendant.

Case No. 2:23-cv-02362-JAK-Ex

Hon. John A. Kronstadt

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION OF ATTORNEYS
SHENGMAO MU AND DAVID
SERGENIAN FOR LEAVE TO
WITHDRAW AS COUNSEL OF
RECORD FOR LAJERRIO
JEWELRY**

DATE: January 29, 2024
TIME: 8:30 a.m.
CTRM: 10B

INTRODUCTION

Attorneys Shengmao Mu (“Mu”) and David Sergenian (“Sergenian”) (collectively “Counsel”) have represented Defendant Lajerrio Jewelry (“Defendant”) diligently throughout the course of this litigation. Defendant recently discharged its Counsel, on December 7, 2023, after a complete breakdown of the attorney-client relationship between Defendant and Counsel. Accordingly, pursuant to the California Rules of Professional Conduct, Counsel is required to seek leave to withdraw as Defendant’s counsel. Mandatory withdrawal constitutes good cause to withdraw under L.R. 83-2.3. Accordingly, Counsel respectfully request that the Court grant them leave to withdraw as Defendant’s attorney’s in this action.

BACKGROUND

On or around April 26, 2023, Plaintiff engaged Counsel to represent it in this action.

On June 16, 2023, Defendant filed an Answer (ECF No. 24) after obtaining stipulating with Plaintiff to extend the time for Defendant to answer. (ECF No. 22.)

A Rule 26(f) conference was held between Defendant and Plaintiff (the “Parties”) on August 2, 2023. On August 9, 2023, the Parties submitted a Joint Rule 16(b)/Rule 26(f) Report. (ECF No. 26.)

On September 5, 2023, the Parties agreed on a mediator to preside over mandatory mediation. (ECF No. 29.)

On December 5, 2023, Defendant informed Counsel that it had decided to discharge Counsel effective immediately, after a complete breakdown of the attorney-client relationship between Defendant and Counsel. (Declaration of Shengmao Mu (“Mu Decl.”) ¶¶ 2, 3.) Counsel advised Defendant that as a result of Defendant’s decision to discharge Counsel, they would be obligated to file this Motion to Withdraw. (*Id.*) Concurrently with filing this motion, Counsel is providing a copy of the moving papers to Defendant. (*Id.* at ¶ 4.)

LEGAL STANDARD

Whether to grant an application to withdraw is a matter within the Court’s discretion. *United States v. Carter*, 560 F.3d 1107, 1113 (9th Cir. 2009). “The motion for leave to withdraw must be supported by good cause.” L.R. 83-2.3.2. “Unless good cause is shown and the ends of justice require, no substitution or relief of attorney will be approved that will cause delay in prosecution of the case to completion.” *Id.* at 83-2.3.5.

“In determining whether to grant counsel’s motion to withdraw, courts often weigh the following four factors: ‘(1) the reasons why withdrawal is sought; (2) the prejudice withdrawal may result to other litigants; (3) the harm withdrawal might cause to the administration of justice[;] and (4) the degree to which withdrawal will delay the resolution of the case.’” *Jones v. James Trading Co.*, 2020 U.S. Dist. LEXIS 256777, at *2–3 (C.D. Cal. Oct. 30, 2020), citing *Kazovsky v. Metrocities Mortgage, LLC*, 2012 U.S. Dist. LEXIS 188908, 2012 WL 8747557, at *1 (C.D. Cal. June 4, 2012).

“In assessing the reasons for withdrawal, the Court looks to the California Rules of Professional Conduct.” *Id.* at *3. *See also Stewart v. Boeing Co.*, CV 12-05621 RSWL (AGRx), 2013 U.S. Dist. LEXIS 87064, 2013 WL 3168269, at *1 (C.D. Cal. June 19, 2013) (“Federal courts also often look to applicable state rules in determining whether adequate grounds exist to excuse counsel from further representation.”) Under the California Rules, withdrawal is mandatory if “the client discharges the lawyer.” *Id.* at *3, citing Cal. R. Prof. Conduct 1.16(a)(4).¹

ARGUMENT

The first factor addressed in the *Jones* case is satisfied here because withdrawal is mandatory under the California Rules of Professional Conduct. Counsel is seeking leave

¹ California Rules of Professional Conduct, rule 16(a), provides, in relevant part: “Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: [¶¶] (4) the client discharges the lawyer.” Rule 16(c) provides: “If permission for termination of a representation is required by the rules of a tribunal, a lawyer shall not terminate a representation before that tribunal without its permission.”

1 to withdraw as counsel because Defendant has discharged Counsel as Defendant's attor-
2 neys. On December 5, 2023, Defendant communicated to Mu that it wishes to terminate
3 Counsel's representation with an effective date of December 7, 2023. (Mu Decl. ¶ 3.)
4 Under the California Rules of Professional Conduct, withdrawal is mandatory. Cal. R.
5 Prof. Conduct 1.16(a)(4). Other district courts in the Ninth Circuit have found that under
6 such circumstances, an order granting leave to withdraw as counsel is warranted. *See,*
7 *e.g., Townsend Farms v. Goknur Gida Maddeleri Enerji Imalat Ithalat Ihracat Ticaret Ve*
8 *Sanayi A.S.*, Case No. LA CV 15-00837-DOC-JCG, 2021 U.S. Dist. LEXIS 193376, at *9
9 (C.D. Cal. Mar. 4, 2021) (finding that party's discharge of its counsel established good
10 cause under Cal. R. Prof. Conduct, rule 1.16(a)(4) and Local Rule 83-3.1.2); *Nawabi v.*
11 *Cates*, 2019 U.S. Dist. LEXIS 166140, 2019 WL 4688693 *2 (E.D. Cal. Sept. 26, 2019)
12 ("Mandatory withdrawal is required where ... 'the client discharges the lawyer.'").

13 In addition, withdrawal is appropriate under the permissive provisions of Califor-
14 nia Rules of Professional Conduct, rule 1.16(b). Rule 1.16(b) provides, in relevant part:
15 "Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:
16 [¶¶] (7) the inability to work with co-counsel indicates that the best interests of the client
17 likely will be served by withdrawal[.]" Here, there has been a complete breakdown in the
18 attorney-client relationship between Defendant and Counsel such that the best interests
19 of Defendant will be served by withdrawal. (Mu Decl. ¶ 2.) *See Rini v. Nationwide Insur-*
20 *ance Company of America*, 2011 U.S. Dist. LEXIS 160890, 2011 WL 13130183 *1–2
21 (C.D. Cal. Nov. 30, 2011) (granting motion to withdraw as a result of "'a complete break-
22 down of the attorney client relationship' that prevents [counsel] from adequately repre-
23 senting [p]laintiff where '[p]laintiff no longer trusts [counsel]' and '[counsel] is unable
24 to reconcile its differences of opinion with [p]laintiff'").

25 The second factor discussed in *Jones* is also satisfied. A trial date has not yet been
26 set in this action. There is still sufficient time for Defendant to obtain new counsel and to
27 participate in discovery and pretrial proceedings. Plaintiff, the only other party to this
28

1 action, will not suffer any prejudice as a result of Counsel's withdrawal as counsel for
2 Defendant.

3 Similarly, the third and fourth factors discussed in *Jones* are also satisfied because
4 the case is still at a very early stage. There are no pending motions on the docket. There
5 is ample time in the schedule for this case to proceed apace. No harm will be caused to
6 the administration of justice, and the resolution of the case will not be delayed.

7 CONCLUSION

8 For the forgoing reasons, Counsel for Defendant respectfully request that the Court
9 grant leave for Counsel to withdraw from representation of Defendant in this action.

10
11 Dated: December 19, 2023

Respectfully submitted,

SERGENIAN LAW

a Professional Corporation

By: /s/David A. Sergenian

DAVID A. SERGENIAN

Counsel for Defendant
LAJERRIO JEWELRY

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